



KWAME M. KILPATRICK, MAYOR  
CITY OF DETROIT  
EXECUTIVE OFFICE

COLEMAN A. YOUNG MUNICIPAL CENTER  
2 WOODWARD AVE., SUITE 1126  
DETROIT, MICHIGAN 48226  
PHONE 313-224-3400  
FAX 313-224-4128  
WWW.CL.DETROIT.MI.US

**HAND-DELIVERED, E-MAILED AND FAXED**

August 15, 2008

Mr. William Goodman Esq.  
Counsel to the Detroit City Council  
1394 E. Jefferson  
Detroit, Michigan 48207

Mr. David Whitaker Esq.  
Director, Research and Analysis Division  
Detroit City Council  
2 Woodward Avenue  
Coleman A. Young Municipal Bldg

Re: Request for the Production of Documents

Dear Counsel,

I have begun review of your document books and have determined that they contain no documents which describe or proscribe in any way the information that is required to be submitted to Council to obtain their approval to settle a case.

I do have the Charter and the Council Rules, so there is no need to provide those: However, I do not have a policy, rule, procedure or reference to any procedure followed by Council in determining whether it will give its approval to the amount requested to settle a case. In this regard, I would ask that you provide me with those documents if any exist, and with any document that requires the submission by anyone, including but not limited to the Law Department attorneys or management, of the final settlement agreements, drafts of same, confidentiality agreements or any other document involved in the resolution of a case.

Please understand that I am not asking for an explanation of why you think the requested documents are not necessary. I am asking for the documents, if any exist, or in the alternative, a statement that they do not exist.

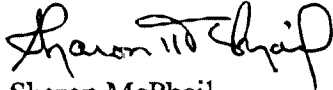
Additionally, in response to your letters of August 12<sup>th</sup> and August 14<sup>th</sup>, please be advised:

1. The attorney for a client may be one who advises him but does not file "an appearance" in the case. The client's privilege is not limited to situations in which there is litigation and the attorney files an "appearance". You need not "guess" as to whether I am asserting the privilege, I told you that I am.
2. As you know, I cannot act both as counsel and a witness. I am not sure what it is you intend to do about that but I suggested that we get a ruling because you certainly cannot make the decision as the "prosecutor" in the case. However, there may not be any issue with respect to my role, as you know, because I told you (in Judge Zilkowski's chambers yesterday) that Jim Thomas is the attorney who will defend in the Council hearings, if any. I am assisting him in obtaining the necessary documents and subpoenas but he will conduct the hearing.
3. The Council Rules applicable to this matter do indeed provide for discovery. I am surprised that you do not know that as I believe that you wrote them, or were at least involved in writing them. See Sec. 2, the first paragraph of the Detroit City Council Rules and Procedures for Hearings and Related Proceedings for Forfeiture of Elective or Appointed City Officers.
4. You indicated when I saw you in Judge Zilkowski's chambers that you would send all of the subpoenas that I requested and later object. I have only three subpoenas from you: Val Washington, Judge Callahan and Michael Stefani. This is Friday: The hearings are scheduled to begin next week.
5. I have only today and yesterday received your documents: The witness list in the Governor's case is not due until August 25<sup>th</sup>, for good reason. I cannot determine who the witnesses should be without reference to what you are offering in terms of evidence. It is for that reason that I provided you, by letter, with as much information as possible. A formal witness list is not going to give you any more information. I find it incredible that as prosecutor, you are threatening us with not being able to call witnesses when you have not produced your own documents until yesterday and today. Exactly when is counsel supposed to read them? I still do not know if you sent them to Jim Thomas, who will be conducting the hearing.
6. In your letter, you refer me to Judge Shakoor and you also give me your decision on some of the issues: I am not sure what role you are taking, that of prosecutor or that of judge? Moreover, with all due respect to Judge Shakoor, whom I have known for many years, I do not think it appropriate for Council to hire and presumably pay a "judge" for their hearing. Both parties should have participated in the selection of a neutral judicial officer.

7. Finally, and most importantly, your letter of August 14<sup>th</sup> did not include a witness list at all or any "subject matter concerning which the proposed witness will be questioned". You may have inadvertently omitted that document.

Please advise me as soon as is possible of your response to this letter.

Sincerely,



Sharon McPhail

Cc: James Thomas  
James Parkman  
Kelly Keenan  
Elbert Hatchett